

RACHEL MAIMIN
HAGAN SCOTTEN
JESSICA FEINSTEIN
DREW JOHNSON-SKINNER
Assistant United States Attorneys
- Of Counsel -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	S2 15 Cr. 95 (AJN)
- v. -	:	
	:	
JAMAL BLAIR,	:	
	:	
Defendant.	:	
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PRELIMINARY STATEMENT

The defendant in this case, Jamal Blair, is scheduled to be sentenced on April 13, 2017. The Government respectfully submits this memorandum in advance of that sentencing and in response to Blair's sentencing memorandum, which requests a sentence of 120 months' imprisonment, the bottom of the parties' stipulated Guidelines range, to run wholly concurrently to the state sentence Blair is presently serving. For the reasons that follow, the Government requests that the Court sentence Blair to a term of imprisonment within the stipulated Guidelines range and asks that a portion of Blair's sentence run consecutively to his state sentence. Consecutive time is necessary to reflect the facts that: (1) Blair committed this crime in connection with a violent street gang; and (2) Blair continued to commit serious crimes after being sentenced on the state charge.

I. Procedural History

On April 27, 2016, the S2 Indictment in this case was unsealed, charging 63 members and associates of BMB with: (1) racketeering conspiracy, in violation of Title 18, United States Code Section 1962; (2) narcotics conspiracy, in violation of Title 21, United States Code,

Sections 841(a)(1), 841(b)(1)(A), and 846; (3) narcotics distribution, in violation of Title 21, United States Code, Section 860; and/or (4) firearms discharge, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

On November 16, 2016, Blair pled guilty to Count One of the S2 Indictment in this case, which charged him with racketeering conspiracy, in violation of Title 18, United States Code, Section 1962(d). (PSR ¶ 7.)

II. Offense Conduct

A. Background

Beginning in December 2014, the New York City Police Department, the Drug Enforcement Administration, Homeland Security Investigations, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives conducted an investigation into two rival street gangs—BMB and the 2Fly YGz (“2Fly”)—that were operating in the Bronx, New York. The investigation revealed that since at least in or about 2007, up until in or about 2016, members of BMB and 2Fly were involved in a variety of racketeering acts, including murders, attempted murders, robberies, narcotics trafficking, bank fraud, and counterfeit currency offenses.

B. BMB

The structure of BMB is described accurately in the PSR.

BMB was a subset of the “Young Bosses,” or “YBz” street gang, which operates throughout the New York City area. BMB—whose members also sometimes refer to themselves as the “Money Making Mafia” or “Triple M”—operated primarily on White Plains Road from 215th Street to 233rd Street in the Bronx, which is a long stretch of road under a subway train overpass that is hedged on each side by single-family homes and local commercial

establishments. BMB's narcotics trafficking activity was based principally in the vicinity of White Plains Road and 224th Street, an open-air drug spot that was referred to by gang members as the "Forts." BMB members sold drugs and down White Plains Road, however, including at a spot on 219th Street and a house on 230th Street. BMB members sold crack cocaine, marijuana, and prescription pills, including Percocet pills (i.e., oxycodone). BMB members kept firearms at each of these White Plains Road locations. BMB members also operated a drug spot on Boston Road and Eastchester Road in the Bronx, which they refer to as "B Road." BMB members who worked principally at the B Road spot typically refer to themselves as "Blamma." Generally speaking, BMB members were encouraged to continue openly "jacking," or proclaiming their membership in the gang, and many did so not only in person but also through social media websites such as Facebook.

In addition to its narcotics trafficking, BMB members and associates engaged in acts of violence, including shootings, stabbings, and gang assaults; these acts of violence protected the power of the gang, deterred attacks from rivals, and secured the gang's territories and drug spots. Moreover, members who engaged in a sufficient amount of violence could earn a leadership position, which was referred to as a "Big Suit." Members with "Big Suit" status were further subcategorized as, among other things, "Burberry Suits," "Louis Suits," "Gucci Suits," "Ferragamo Suits," and "Sean John Suits," in order to signify their relative rank in the gang. Among other things, a BMB member with "Big Suit" status had the authority to recruit other individuals into the gang. Two of the highest-ranking "Big Suits" in BMB were NICO BURRELL, a/k/a "Zico Nico," and DOUGLAS MCLARTY, a/k/a "Q Don." Both BURRELL and MCLARTY enhanced their status in the gang, in part, by committing attempted murders when they were each juveniles.

Members of BMB rose in status and rank within the gang not only by engaging in acts of violence, but also by maintaining their membership in the gang for a long period of time.

Members who were loyal associates for a substantial amount of time are referred to as “Day One Niggas,” meaning that they have been associating with the gang since its earliest days. For example, in a posting on Facebook on July 7, 2013, BMB member RASHEID BUTLER, a/k/a “Rah,” wrote: “i love my Day1 Niggas that was here since this #TripleM Shit 1ST STARTED.” Similarly, BMB leader NICO BURRELL, a/k/a “Zico Nico,” discusses the “Day One” concept in a rap video posted on YouTube in December 2015 and entitled “Live From Gutter.” In the video, BURRELL raps, “No new niggas, only day one / I know they ain’t tellin’ if that day come,” after which another rapper repeats in the background, “no snitchin.”

BMB has, more generally, developed a gang norm against “snitchin,” or cooperating with law enforcement. For example, a BMB associate posted on Facebook on July 20, 2011, “Like QuDOOn Said ‘No Snitchin Policy’”; the reference to “QuDOOn” is a reference to MCLARTY, who is one of BMB’s leaders and whose alias is “Q Don.” BMB’s norm against “snitchin” was fostered through YouTube videos and social media postings, including postings in which gang members are praised for their refusals to cooperate with law enforcement in particular instances. The norm is also enforced through disparagement of and threats of violence against BMB members who are suspected of having violated the norm by cooperating. During the course of this investigation, law enforcement learned of at least one instance in which a BMB member’s home was fired upon because he made a statement to law enforcement about individuals with whom he had committed a robbery. During another instance, the child of a suspected cooperator in this case was threatened and spat upon in the street. The norm against

cooperation facilitates the gang's criminal enterprise and is one of the reasons why members of BMB tend to commit their robberies and fraud offenses with other members of BMB.

Many of the specific acts of violence committed by BMB members related to its longstanding rivalry with 2Fly, which is based principally in the nearby Eastchester Gardens public housing development ("Eastchester Gardens"), but which also has members who live in the "Valley" area just east of BMB's "B Road" spot on Boston Road and Eastchester Road. BMB also has developed rivalries with other street gangs in the northern Bronx, including the "Young Shooter Gang," or "YSGz," which is based in the Edenwald public housing development ("Edenwald"), and the "Slut Gang," which is based in the Boston-Secor public housing development ("Boston-Secor"). In connection with these rivalries, BMB members developed a practice of "mobbing," meaning to gather in large groups and travel to the base of operations of a rival gang to engage in violence there. Members of rival gangs also sometimes went "mobbing" and attack or attempt to attack BMB at its bases of operations. Videos of "mobbing" incidents were posted on YouTube. The close proximity of the BMB, 2Fly, YSGz, and Slut Gang bases of operations—all of which are in or on the border of the New York City Police Department's 47th Precinct—contributed to the frequency of acts of violence.

In addition to acts of violence, members and associates of BMB promoted their gang and disparaged rival gang members by highlighting a distinguishing feature of BMB: it is not based in a housing development, as are its principal rivals 2Fly (in the Eastchester Gardens), YSGz (in Edenwald), and the Slut Gang (in Boston-Secor). As noted above, BMB principally operated along White Plains Road, a long stretch of road hedged on each side by single-family homes and local commercial establishments. The name of the gang ("Big Money Bosses") and the other allusions to wealth that the gang employs (for example, the brand-name clothing retailers used to

identify leadership positions) all serve to underscore this difference. In addition, members and associates of BMB have publicly mocked the living conditions of the housing developments in which many of their rivals live. For example, in a Facebook post on July 10, 2014, BMB member DONQUE TYRELL, a/k/a “Polo Rell,” posted a photograph of a young child laying on a bed and covered with cockroaches, with the caption “MEANWHILE IN EDENWALD.” In connection with the posting of this picture, TYRELL wrote, “Dirty ass project,” followed by six smiley-face “emoticons.” Similarly, in a Facebook posting on May 28, 2014, BMB member MASHUD YODA, a/k/a “Papa Ola,” writes, “No Lie ECG [*i.e.*, the Eastchester Gardens] The Dirtiest PROJECTS UPTOWN Like OBAMA Said CHANGE But I Guess He forgot Bout ECG !!”

Consistent with this feature of BMB, members and associates of the gang engaged not only in narcotics distribution and robberies to enrich and distinguish its members from rivals, but also engaged in a variety of frauds, including bank fraud and counterfeit currency offenses. To perpetrate some of these fraud offenses, BMB members and associates often employed their girlfriends and female acquaintances.

C. Blair’s Role

Blair was a member of a crew affiliated with BMB that sold drugs at the vicinity of White Plains Road and 228th Street. Blair’s association with BMB is reflected, in part, in BLAIR’s association with BMB is further established by Facebook messages posted by BMB members calling for him to be released from jail. For example, in an October 24, 2014 Facebook post, BMB member Robert Houghton, a/k/a “Duke,” wrote, “#Free my n***a Fish tho,” a reference to Blair. BMB member Rasheid Butler, a/k/a “Rah,” wrote in response to the message, “Word free my son.” Similarly, on January 5, 2012, BMB associate Hakeem Campbell, a/k/a

“Ocky,” a/k/a “Ackee,” wrote, “Free My Nikka FISH.”

Blair killed a 92 year-old woman in 2009. On October 20, 2009, Blair was at the “Forts” location on White Plains Road and 224th Street when members of a rival gang arrived. Blair fired a gunshot to scare the rival gang members, and that stray bullet flew into the home of 92-year-old Sadie Mitchell, who resided at 731 East 224th Street, right at the “Forts” location. The bullet struck and killed her as she watched television in her home.

The killing of Sadie Mitchell was not Blair’s only act of violence with the Gang. Blair also participated in a September 22, 2009 home invasion robbery in Manhattan, during which the victim was punched, kicked, and struck in the head, possibly with a silver handgun. The perpetrators stole the victim’s laptop computer and fled on foot.

Blair sold drugs with the Gang. On January 29, 2007, Blair was arrested in Gang territory was arrested at that location after he sold a controlled substance to an undercover police officer. On July 3, 2007, Blair was arrested at the “Forts” on White Plains Road and 224th Street after he was found to be in possession of a distribution quantity of a controlled substance. On June 7, 2009, Blair was again arrested at the “Forts” location after being found in possession of a quantity of marijuana.

Blair was arrested in possession of a loaded .25 caliber firearm in the vicinity of White Plains Road and 226th Street on April 17, 2009.

III. The Defendant’s Criminal History

Blair has a serious criminal history. He qualifies as a career offender under the Guidelines based upon prior crimes of violence.

On April 17, 2009, Blair was adjudicated a youthful offender in connection with a local law violation. He was sentenced to three years' probation; he was on probation when he killed Sadie Mitchell.

On July 26, 2009, Blair was convicted of possessing marijuana, which resulted in a \$25 fine.

On October 22, 2009, Blair was convicted of weapons and manslaughter charges in New York State Court in connection with the murder of Sadie Mitchell, which resulted in a total sentence of 15 years' imprisonment.

On January 5, 2010, Blair was convicted of the home invasion robbery described above, which resulted in a term of 4 years' imprisonment.

On April 26, 2013—i.e., while he was in prison serving his sentence for the killing of Mitchell—Blair pled guilty to possessing a shank in prison.

IV. The PSR and Guidelines Calculation

The PSR agrees with the parties' overall calculation of Blair's sentencing Guidelines range, in that Blair qualifies as a career offender, and recommends a sentence at the bottom of the parties' stipulated Guidelines range of 120 to 150 month's imprisonment. This range represents a departure pursuant to U.S.S.G. § 4E1.1, Application Note 4, to avoid an anomalous result in this case.

3553(a) ARGUMENT

A sentence that runs at least in part consecutively to Blair's state sentence is appropriate here to meet the statutory sentencing factors.

There cannot be any dispute that the homicide of Sadie Mitchell was an atrocity—the murder of an innocent, elderly woman sitting in the perceived safety of her home by an armed

gangster. There is no place for such violence in a civilized society and it merits the most severe punishment.

That said, there is no dispute between the parties that there are major mitigating factors in this case. Blair has suffered extreme trauma in his life, in part because of the murder of his mother. Blair also feels remorse for his crime. That is evident in the video of his post-arrest statement, which Blair supplied to the Court. These mitigating factors, in part, formed the basis of the Government's decision to agree to a downward departure in this case.

In light of these mitigating factors, if the killing of Sadie Mitchell were Blair's only crime, perhaps Blair's request for wholly concurrent time would be more reasonable. But that was not nearly his only crime. In fact, he is a career offender. He was an associate of BMB, a violent street gang; Mitchell was killed because of a beef between BMB and a rival gang. And in the years prior to Mitchell's murder—and Blair's incarceration—Blair was on a crime spree: selling drugs with BMB, carrying a gun, and committing armed robbery. Being in prison did not even stop Blair from breaking the law: he fashioned a shank in prison in 2013.

Under these circumstances, a sentence that results in a portion of consecutive time is necessary not only to reflect the seriousness of the offense, but to deter Blair—who has already demonstrated that his current sentence was not enough to deter him.

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court impose a sentence within the stipulated Guidelines range that runs consecutively, at least in part, to Blair's term of state imprisonment.

Dated: New York, New York
April 11, 2017

Respectfully submitted,

JOON H. KIM,
Acting United States Attorney for the
Southern District of New York,

By: /s/
Rachel Maimin
Hagan Scotten
Jessica Feinstein
Drew Johnson-Skinner
Assistant United States Attorneys
(212) 637-2460